

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION

One Ashburton Place, Room 503
Boston, MA 02108
617.727.2293

VICTORIA JACKSON,
Appellant,

v.

D1-13-62

WORCESTER PUBLIC SCHOOLS,
Respondent

Appearance for Appellant:

Michael Manning, Esq.
NAGE
159 Burgin Parkway
Quincy, MA 02169

Appearance for Respondent:

Sean Sweeney, Esq.
311 Village Green North: Suite A4
Plymouth, MA 02360

Commissioner:

Christopher C. Bowman

DECISION

Pursuant to G.L. c. 31, § 43, the Appellant, Victoria Jackson (Ms. Jackson), filed a timely appeal with the Civil Service Commission (Commission) on March 11, 2013, contesting the decision of the Worcester Public Schools (WPS) to terminate her from her position as a cafeteria helper. A pre-hearing conference was held at the offices of the Commission on April 9, 2013. A full hearing was held at the Durkin Administration Building, 20 Irving Street, Worcester, on May 8, 2013. Neither party requested a public hearing, so the hearing was deemed private. The hearing was digitally recorded and the parties were provided with a CD of the hearing. The parties submitted post-hearing briefs on June 21, 2013.

FINDINGS OF FACT

Based on Exhibits 1 through 9A, the stipulations of the parties, the testimony of:

Called by WPS:

- Denise Khalili, School Nurse; Woodland and Claremont Academies, WPS;
- Mari Ortiz, Medical Coordinator / Receptionist; Family Health Center;
- Mark Brophy, Director, Instructional Support Personnel, WPS;
- Patricia Padilla, Principal, Woodland Academy, WPS;

Called by Ms. Jackson:

- Victoria Jackson, Appellant;

and taking administrative notice of all matters filed in the case and pertinent statutes, regulations and policies, and reasonable inferences therefrom, a preponderance of the evidence establishes the following findings of fact:

1. Ms. Jackson began employment with the WPS on March 5, 2007 as a substitute cafeteria helper. She was appointed as a permanent cafeteria helper on October 11, 2007 and served in that position for approximately five and a half (5 ½) years until she was terminated on February 25, 2013. (Stipulated Facts) She was assigned to the Union Hill School.
(Testimony of Ms. Jackson)
2. At the time of her termination, Ms. Jackson's son was a 6th grade student at Woodland Academy within the WPS. (Testimony of Ms. Jackson and Ms. Padilla)
3. Woodland Academy is a Pre-K through Grade 6 school housed in a pre-K through Grade 12 building with Claremont Academy. There are approximately five hundred (500) students at the school. (Testimony of Ms. Padilla)
4. Patricia Padilla has been the Principal of Woodland Academy since 2006. (Testimony of Ms. Padilla)

5. Prior to February 25, 2013, Ms. Padilla had multiple interactions with Ms. Jackson regarding her son which caused Ms. Padilla to be concerned for the safety of her staff. In 2009, Ms. Padilla received an urgent phone call from her administrative assistant who was concerned that an angry Ms. Jackson was en route to the school. Ms. Padilla ran down two (2) flights of stairs and encountered Ms. Jackson who was screaming profanities. When Ms. Padilla stood between Ms. Jackson and the school's Assistant Principal, Ms. Jackson was verbally abusive and made comments such as "what, are you fucking scared of me?". Ms. Padilla told Ms. Jackson to calm down or she would call the Worcester Police. From that point forward, Ms. Jackson was informed that she must deal directly with the "Quadrant Manager" if she had any future issues with her son. (Testimony of Ms. Padilla)
6. Mark Brophy is the Director of Instructional Support Personnel for the WPS and has held that position since July 1, 2011, and was in that position as of the date of the incident (February 6, 2013) that resulted in Ms. Jackson's termination. He previously served as the Staffing / Mentor Coordinator for the WPS for approximately ten (10) years. (Testimony of Mr. Brophy)
7. Mr. Brophy performs the human resource functions associated with approximately two thousand (2,000) non-instructional personnel, including hiring, discipline and other matters. (Testimony of Mr. Brophy)
8. Prior to the incident on February 25, 2013, Mr. Brophy had three (3) or four (4) conversations with Ms. Jackson in which she called him to complain about how supervisors were handling the "bid list". During each of these conversations, Ms. Jackson was profane and belligerent, referring to her supervisors as "fucking assholes" and threatening to go to the City's Mayor to "fucking blow this thing up" referring to how the bid list was being handled.

On each occasion, Mr. Brophy cautioned Ms. Jackson to stop yelling and to calm down, but he did not discipline her. (Testimony of Mr. Brophy)

9. The Family Health Center of Worcester operates several “school-based” health centers in Worcester where students who are Family Health Center members may access primary health care services during school hours. One of these school-based health centers is located at Woodland and Claremont Academies and is called the Academy Health Center (Health Center). (Testimony of Ms. Ortiz)
10. The Health Center is co-located with the office of the School Nurse on the first floor. The health suite has a waiting area for six (6) or seven (7) people; a reception area behind a glass partition; and, behind a locked door, a hallway with various rooms off of it, including resting areas; the office of the School Nurse and the office of another Health Center employee, a Nurse Practitioner (NP). The School Nurse and the Family Health Center have separate telephone lines. (Testimony of Ms. Khalili)
11. Denise Khalili is the School Nurse. She has been employed in that capacity for eleven (11) years. (Testimony of Ms. Khalili)
12. Mari Ortiz is employed by the Family Health Center. She has been employed for nine years and has been working at Woodland / Claremont Academy for five (5) school years. Her functional duties include office management and receptionist. (Testimony of Ms. Ortiz)
13. Karyn Coyle is employed by the Family Health Center as a Nurse Practitioner. (Testimony of Ms. Khalili and Ms. Ortiz)
14. Ms. Jackson’s son received medication through the Family Health Center. The NP, in conjunction with a Family Health Center physician, was responsible for prescribing medications for Ms. Jackson’s son. (Testimony of Ms. Khalili)

15. Ms. Khalili has known Ms. Jackson for at least eight (8) years, dating back to when Ms. Jackson's son first enrolled in Kindergarten at Woodland Academy. (Testimony of Ms. Khalili)
16. Ms. Khalili had previously shared her cell phone number with Ms. Jackson in order to assist in ensuring that Ms. Jackson's son was getting his medication daily. They had texted about his medication in the prior year in order to confirm whether or not he had taken the medication. They were not socially friendly. Since Ms. Jackson's son was now a patient of the Family Health Center, all medications and prescriptions were now handled by the Family Health Center and the NP Karyn Coyle. (Testimony of Ms. Khalili)
17. As of Friday, January 18, 2013, Ms. Jackson realized that her son was down to two pills of his prescription. (Testimony of Ms. Jackson)
18. On January 21, 2013, Ms. Jackson contacted NP Coyle because her son was at the end of his medication. Ms. Jackson was of the understanding that her son would come home with a new or re-filled prescription that day. (Testimony of Ms. Jackson)
19. Although Ms. Jackson's son did not come home with a new or re-filled prescription, she did not follow-up on this until February 6, 2013. (Testimony of Ms. Jackson)
20. On February 6, 2013, Ms. Jackson was working at the Union Hill School in her capacity as a Cafeteria Helper from 7:00 A.M. to 1:00 P.M. At approximately 10:30 A.M., Ms. Jackson stepped into an office adjacent to the cafeteria. Using her cell phone, she called the Family Health Center phone line to inquire about her son's medication. (Testimony of Ms. Jackson)
21. When Ms. Ortiz answered the phone, Ms. Jackson identified herself and stated that she wanted to speak with Ms. Khalili, the School Nurse. Since they maintain separate phone

lines, Ms. Ortiz had to walk back to Ms. Kahlili's office and let her know that Ms. Jackson was on the phone and that she wanted to talk to her. (Testimony of Ms. Ortiz)

22. Ms. Kahlili walked out front to the receptionist area with Ms. Ortiz to talk to Ms. Jackson, who was on hold. Ms. Kahlili picked up the phone receiver and identified herself.
(Testimony of Ms. Kahlili)

23. Ms. Jackson told Ms. Kahlili that it was "insane" that her son did not have his prescription and demanded that Ms. Kahlili go ask the Nurse Practitioner (Ms. Coyle) what was going on.
(Testimony of Ms. Jackson)¹

24. Ms. Kahlili put Ms. Jackson on hold and went to speak with Ms. Coyle, who was treating a patient at the time. (Testimony of Ms. Kahlili)

25. After speaking with Ms. Coyle, Ms. Kahlili returned to the reception desk and picked up the phone. (Testimony of Ms. Kahlili) She told Ms. Jackson that, going forward, she would need to speak with a person by the name of George at a non-school-based location of the Family Health Center. Ms. Kahlili provided Ms. Jackson with a phone number to call to reach this person. (Testimony of Ms. Jackson)

26. In response, Ms. Jackson stated words to the effect, "can you go tell that nurse practitioner I'm going to fuck her up; I'm going to kill her; I'm going to make it as if she doesn't want to come back to the school." (Testimony of Ms. Kahlili)²

¹Ms. Kahlili testified that Ms. Jackson used profanity and made threatening remarks during this *initial* phone exchange. I have reviewed the testimony of the percipient witnesses multiple times and I do not find this plausible. Rather, I have reached the reasonable conclusion that the use of profanity and threatening language occurred during a *second* phone exchange when Ms. Kahlili told her that, going forward, she would need to deal with an individual at a non-school-based location of the Family Health Center. This is consistent with Ms. Kahlili's own testimony in which she stated that she went and spoke to Ms. Coyle a second time to notify her about Ms. Jackson's threatening remarks (See Finding 27).

² Ms. Jackson testified that she never stated these words. Rather, Ms. Jackson stated that while she was on hold, she stated words to the effect, "I'm going to kill those bitches." I have credited what I deem to be the consistent and

27. Ms. Kahlili went back and talked to Ms. Coyle again and informed her of the threatening remarks made by Ms. Jackson. (Testimony of Ms. Kahlili)
28. While Ms. Kahlili did not feel as if she was in imminent danger, she believed there was a possibility that Ms. Jackson would indeed come to the Health Center and harm Ms. Coyle. (Testimony of Ms. Kahlili)
29. Approximately five (5) minutes later, Ms. Kahlili called Ms. Padilla, the school principal, and told her (Padilla) that she needed to talk with her about a conversation she just had with a parent. (Testimony of Ms. Kahlili)
30. Ms. Padilla arrived at the Health Center shortly thereafter. After Ms. Kahlili told her about the above-referenced conversation, Ms. Padilla stated that the matter needed to be taken “seriously” and that she would be taking steps to obtain a “no trespass order” against Ms. Jackson. (Testimony of Ms. Kahlili)³
31. Approximately thirty (30) minutes after her phone conversation with Ms. Jackson, Ms. Kahlili received two (2) text messages on her cell phone from Ms. Jackson. The first text message stated, “I’m so sad right now Denise. This is about my son, not me. And I talk.” The second message stated, “Wow.” (Testimony of Ms. Kahlili)
32. Around the same time, Ms. Jackson also called Ms. Kahlili’s cell phone and left a voicemail message. The message from Ms. Jackson states, in part, that she is “appalled” and “disgusted” with her. (Recorded voice mail message played at hearing.)

reliable testimony of Ms. Kahlili in this regard. Ms. Jackson’s own version of events, even if I were to credit her testimony, is equally troubling however.

³Ms. Padilla testified that, when she arrived at the Family Health Center, the staff members were in a panic, were afraid that Ms. Jackson was en route to the Health Center and that they had locked the Health Center’s door as a precaution to prevent Ms. Jackson’s entry. This is not consistent with the specific and/or general testimony of Ms. Kahlili or Ms. Ortiz, neither of whom stated they felt as if they were in immediate danger or in a state of panic. It is also noteworthy that Ms. Kahlili, although clearly troubled by the phone conversation, waited five (5) minutes to contact the school’s principal.

33. Also around the same time, Ms. Jackson called the Family Health Center phone line and spoke to Ms. Ortiz and stated words to the effect, “Really Mari?, I can’t believe what you guys did to me.” (Testimony of Ms. Ortiz and Ms. Jackson)⁴
34. Robert Pezzella, a safety officer for the WPS, came to the school and talked to Ms. Kahlili about the incident. A Worcester police officer subsequently came to the school and took statements from Ms. Kahlili, Ms. Ortiz and Ms. Coyle.⁵ (Testimony of Ms. Kahlili and Exhibit 7)
35. A No Trespass Order was issued by the WPS against Ms. Jackson on February 7, 2013. The Order stated in part, “As a result of your threatening phone call to the Family Health Center while working at Union Hill School and due to your chronic belligerent and hostile actions towards staff at Woodland Academy and the employees of the Family Health Center, you are no longer allowed on school premises or at any school sponsored events.” (Testimony of Ms. Padilla and Exhibit 6)
36. When Mr. Brophy was informed of this incident, he called Ms. Jackson and notified her that she was being put on paid administrative leave. He then instructed Principal Padilla to have Ms. Ortiz and Ms. Kahlili prepare written statements regarding what occurred. After receiving the statements and noticing that the date of incident was incorrect, he asked for and received amended statements. (Testimony of Mr. Brophy and Exhibits 8, 8A, 9 and 9A)⁶

⁴ I did not credit another portion of Ms. Ortiz’s testimony in which she stated that Ms. Jackson also told her that she could get her on the street and that she interpreted this as a threat. Her comments did not ring true to me on this matter and her testimony on this point was only given after her memory was refreshed by counsel.

⁵ Ms. Coyle was not called as a witness at the hearing before the Commission.

⁶ After careful review, I gave no weight to these written statements. Although it is obvious (to me) that one or both of these statements were not written independently, both Ms. Kahlili and Ms. Ortiz insisted that they were. For example, in the first sentence, both statements state (the same) erroneous date of the incident and misspell (in the same way) the word “approximately”. The fact that the statements were not written independently was of less concern to me than both witnesses’ testimony to the contrary. As a result, I have given the written statements no weight and relied solely on those portions of their testimony that I have deemed credibly. More broadly, for the

37. On February 15, 2013, Mr. Brophy served as the hearing officer at the local civil service hearing. He relied on the written statements of Ms. Kahlili and Ms. Ortiz as well as the answers to questions he posed to Ms. Jackson. As part of his decision-making process, Mr. Brophy considered that the no trespass order and the police involvement had “anteed up” the seriousness of the matter before him. (Testimony of Mr. Brophy)
38. On February 19, 2013, Mr. Brophy penned a letter to the Superintendent of Schools recommending that Ms. Jackson be terminated from her position as a cafeteria helper, stating in relevant part, “Based on the police report, no trespassing order, signed statements from Denise and Mari, and the fact that Ms. Jackson admitted making some type of verbal threat to do harm, I recommended termination.” (Testimony of Mr. Brophy and Exhibit 2)
39. Approximately two (2) weeks after the incident on February 6, 2013 (which would be approximately February 20, 2013), Ms. Jackson received a phone call from a male who she believes is employed by Woodland Academy to confirm that her son received the medication in question. She told the person to “fuck off”. (Testimony of Ms. Jackson)
40. On February 25, 2013, the Superintendent accepted Mr. Brophy’s recommendation and terminated Ms. Jackson. (Exhibit 5)

LEGAL STANDARD

G.L. c. 31, § 43, provides:

“If the commission by a preponderance of the evidence determines that there was just cause for an action taken against such person it shall affirm the action of the appointing authority, otherwise it shall reverse such action and the person concerned shall be returned to his position without loss of compensation or other rights; provided, however, if the employee by a preponderance of evidence, establishes that said action was based upon harmful error in the application of the appointing authority’s procedure, an error of

same reasons, I set the bar higher (for both witnesses) before deeming their testimony credible and using it as the basis for establishing any of my findings in this matter.

law, or upon any factor or conduct on the part of the employee not reasonably related to the fitness of the employee to perform in his position, said action shall not be sustained, and the person shall be returned to his position without loss of compensation or other rights. The commission may also modify any penalty imposed by the appointing authority.”

An action is "justified" if it is "done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind; guided by common sense and by correct rules of law." Commissioners of Civil Service v. Municipal Ct. of Boston, 359 Mass. 211, 214 (1971); Cambridge v. Civil Service Comm’n, 43 Mass.App.Ct. 300, 304, rev.den., 426 Mass. 1102, (1997); Selectmen of Wakefield v. Judge of First Dist. Ct., 262 Mass. 477, 482 (1928). The Commission determines justification for discipline by inquiring, "whether the employee has been guilty of substantial misconduct which adversely affects the public interest by impairing the efficiency of public service." School Comm. v. Civil Service Comm’n, 43 Mass. App.Ct.486, 488, rev.den., 426 Mass. 1104 (1997); Murray v. Second Dist. Ct., 389 Mass. 508, 514 (1983)

The Appointing Authority's burden of proof by a preponderance of the evidence is satisfied "if it is made to appear more likely or probable in the sense that actual belief in its truth, derived from the evidence, exists in the mind or minds of the tribunal notwithstanding any doubts that may still linger there." Tucker v. Pearlstein, 334 Mass. 33, 35-36 (1956).

ANALYSIS

The WPS argues that Ms. Jackson, during working hours, called and threatened two (2) employees of the school-based Family Health Center. Citing the seriousness of her offense and Ms. Jackson’s history of belligerence, the WPS argues that termination is warranted.

Ms. Jackson argues that the WPS overreacted to a frustrated parent having a heated conversation with health care personnel about her son’s medication and that any comments that

she made were not meant to be threatening. Further, Ms. Jackson cites her lack of any formal disciplinary history as a reason to overturn her termination.

Determining what actually occurred during the morning of February 6, 2013 requires that I assess the credibility of the percipient witnesses that appeared before me. It is the function of the Commission to determine the credibility of testimony presented before it and what degree of credibility should be attached to a witness's testimony. See School Committee of Wellesley v. Labor Relations Commission, 376 Mass. 112, 120 (1978); Embers of Salisbury, Inc. v. Alcoholic Beverages Control Commission, 401 Mass. 526, 529 (1988); Doherty v. Retirement Bd. of Medford, 425 Mass. 130, 141 (1997). The hearing officer must provide an analysis as to how credibility is apportioned amongst witnesses. Herridge v. Board of Registration in Medicine, 420 Mass. 154, 165 (1995).

I was troubled by the striking similarity of the written statements of Ms. Kahlili and Ms. Ortiz regarding the February 6th incident coupled with the refusal of these witnesses to acknowledge that there was some degree of coordination in preparing their statements. For this reason, I did not give any weight to the written statements and, instead, relied on those portions of their live testimony that I deemed credible. Further, for the same reasons, I set the bar higher in assessing the credibility of their live testimony.

Even after setting this higher bar, I found most aspects of Ms. Kahlili's testimony to be highly credible and I credited most of her statements in making my findings. Prior to the incident on February 6th, Ms. Kahlili had no personal animus against Ms. Jackson and she had no reason to fabricate the allegations against her. In fact, Ms. Kahlili had once given Ms. Jackson her personal cell phone number to ensure that Ms. Jackson's son was receiving his prescribed medicine on a daily basis. More generally, Ms. Kahlili's testimony rang true to me. She provided a consistent

account of what occurred without regard to whether it painted Ms. Jackson in a positive or negative light. Having credited most of Ms. Kahlili's testimony, I have concluded that Ms. Jackson, while speaking with Ms. Kahlili on the phone on February 6, 2013, stated words to the effect:

“can you go tell that nurse practitioner I’m going to fuck her up?; I’m going to kill her; I’m going to make it as if she doesn’t want to come back to the school.”

While Ms. Kahlili did not feel personally threatened or believe that she was in imminent danger, she did believe that there was a possibility that Ms. Jackson would come to the Health Center and harm the nurse practitioner.

I did not credit certain statements of Ms. Ortiz, including her statement that Ms. Jackson told her that she would find her (Ms. Ortiz) on the street and that Ms. Ortiz felt threatened by this statement. She only testified to this upon having her memory refreshed and it did not ring entirely true to me. More generally, Ms. Ortiz had more trouble remembering specific events and often provided general, somewhat non-responsive answers to questions posed to her. Thus, I have not concluded, as the WPS did, that Ms. Jackson made *two* threatening statements on February 6th.

Ms. Padilla, the school Principal, was a percipient witness only to the extent that she observed the demeanor of the health office staff when she responded to a call from Ms. Kahlili. Ms. Padilla's testimony that she observed a panicked staff in crisis mode upon her arrival appears, respectfully, overblown and inconsistent with the testimony of Ms. Kahlili and Ms. Ortiz. As referenced in the findings, Ms. Kahlili waited five (5) minutes before contacting the Principal and neither Ms. Kahlili or Ms. Ortiz corroborated Ms. Padilla's testimony that the health office had been locked down to prevent Ms. Jackson's imminent arrival.

While Ms. Padilla may have overstated the level of anxiety in the office that day, she was right to take the statement from Ms. Jackson seriously, particularly in light of the prior interactions that she had with Ms. Jackson, including the 2009 incident in which Ms. Padilla literally stood between Ms. Jackson and the Assistant Principal during a verbally abusive rant by Ms. Jackson. In regard to that prior incident, I credit the entirety of Ms. Padilla's testimony. It was specific; it rang true to me; and, importantly, it was consistent with a portion of Ms. Jackson's own testimony that she was subsequently required to meet only with the Quadrant Manager to discuss any school-related issues regarding her son. In regard to this most recent incident, Ms. Padilla took the appropriate and reasonable steps to ensure the safety of the school and health center employees by notifying school security and the local police and issuing a no trespass order.

By making the threatening statement, while on duty, against a health center employee, Ms. Walker engaged in substantial misconduct which adversely affected the public interest. She caused a disruption at a facility whose mission is to provide health care to children. Her threatening statement was serious enough to result in a veteran school nurse to at least consider it a "possibility" that Ms. Jackson would make good on her threat. This behavior is abhorrent and has no place in a school setting or any place else for that matter. For these reasons, the WPS had just cause to discipline Ms. Jackson.

Having determined that it was appropriate to discipline Ms. Jackson for this incident, I must determine if the WPS was justified in the level of discipline imposed, which, in this case, was termination.

The Commission is guided by "the principle of uniformity and the equitable treatment of similarly situated individuals" [both within and across different appointing authorities]" as well as the

“underlying purpose of the civil service system ... to guard against political considerations, favoritism and bias in governmental employment decisions.” Falmouth v. Civil Service Commission, 447 Mass. 814, 823 (2006) and cases cited. Even if there are past instances where other employees received more lenient sanctions for similar misconduct, however, the Commission is not charged with a duty to fine-tune an employee’s discipline to ensure perfect uniformity. See Boston Police Dep’t v. Collins, 48 Mass. App. Ct. 408, 412 (2000).

“The ... power accorded the commission to modify penalties must not be confused with the power to impose penalties ab initio, which is a power accorded the appointing authority.” Falmouth v. Civ. Serv. Comm’n, 61 Mass. App. Ct. 796, 800 (2004) quoting Police Comm’r v. Civ. Serv. Comm’n, 39 Mass.App.Ct. 594, 600 (1996). Unless the Commission’s findings of fact differ significantly from those reported by the appointing authority or interpret the relevant law in a substantially different way, the commission is not free to “substitute its judgment” for that of the appointing authority, and “cannot modify a penalty on the basis of essentially similar fact finding without an adequate explanation.” E.g., Falmouth v. Civil Service Commn, 447 Mass. 814, 823 (2006).

Here, after a de novo hearing in which I reviewed all of the documentary evidence and listened to the testimony of percipient witnesses, I have concluded, similar to the WPS’s conclusions, that Ms. Jackson made a threatening comment about the Nurse Practitioner during a conversation with Ms. Kahlili. Unlike the WPS, however, I did not conclude that Ms. Jackson made a second threatening statement to Ms. Ortiz. I do not believe, however, that this warrants the Commission’s intervention in the form of a modified discipline. Standing alone, the one threatening statement provided the WPS with just cause to terminate Ms. Jackson.

I also considered the fact that Ms. Jackson has no formal disciplinary history. She has, however, exhibited a pattern of behavior which has convinced me that her threatening statement on February 6, 2013 was not an aberration. Rather, it is consistent with an individual who seeks to intimidate others

though the use of profane language and aggressive behavior. There is no place for this type of behavior in today's workplace and Ms. Jackson should not be permitted to return to the Worcester Public Schools to continue this unacceptable pattern of behavior.

Conclusion

For all of the above reasons, Ms. Jackson's appeal under Docket No. D1-13-6 2 is hereby ***denied*** and the decision by the Worcester Public School to terminate Ms. Jackson is upheld.

Civil Service Commission

Christopher C. Bowman
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Ittleman, Marquis, McDowell and Stein) on August 22, 2013.

A True Record. Attest:

Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision.

Notice to:
Michael Manning, Esq. (for Appellant)
Sean Sweeney, Esq. (for Respondent)